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Correction Order Problem No. 37920

From: **JAMES THOMPSON** (landbyjt@msn.com)
Sent: Tue 9/08/09 12:30 PM
To: mvanhar@co.pierce.wa.us
Cc: Rosanne Powers (rosannepowers@msn.com); mitchtcm@dfw.wa.gov;
jgillet@co.pierce.wa.us

Dear Mary Van Haren

I received your Correction Notice dated August 31, 2009 and have the following comments.

I am forwarding email responses I sent to Mark Luppino dated 9-1-09 and Joe Gillette dated 8-31-09. I have not received any response to my correspondence to date. In addition to the forwarded email discussion, I would like to add the following. Your Notice states that a trench has been dug. I would like to reiterate that a trench was not dug. The channel you refer to was created by water flowing into and out of the lagoon. The concrete pavers and rocks placed along the channel was to prevent the channel from growing larger and deeper and causing more beach erosion. I know from observing the tidal erosion and dynamics of the beach, for over 15 years, that if the rocks and pavers were removed the channel would grow and deepen to the point that the entire beach and lagoon could be lost. I have physically observed the very deep channeling by the flow and have been able to control it with the placement of erosion protection armoring. I don't believe you or your experts understand the tremendous power and volume of flow that flushes in and out of the lagoon on high tide. **You absolutely cannot remove this armoring if you want to prevent further erosion.** No biologist or DOE Shoreline Specialist can sit at their desk and predict what we have observed actually occurs on this beach. As I stated, in my previous emails, I am a licensed civil engineer, with design experience in tidal environments, so I hope you can consider my opinion and advice.

The proper solution is either to provide further more permanent armoring of the existing channel or reopen the historical channel at the north end of the lagoon which was allowed to become blocked by my neighboring property owners. Your demand to simply block all inflow and outflow to the the lagoon is not a viable option. If your demand was implemented the lagoon tidal interchange would be blocked, causing stagnant trapped lagoon and all sea life would die. Again, we have seen this actually happen between the time the historical outlet was blocked and the new outlet evolved. The second reason your demand is not viable is that surface and ground water entering the lagoon needs and will create an outlet from the lagoon. It is questionable to us that you don't seem to have any concern over the significant fact that the **lagoon must have regular and sufficient tidal interchange to sustain life** and environmental health. The lagoon is currently flourishing with life including schools of fish who depend on the tide.

As stated previously, It is my recommendation that the historical lagoon outlet be re-established. This can be done relatively easily by hand digging a shallow trench where the illegal culvert has filled with sand. The tidal flow will recreate the historical channel. This will certainly cause beach erosion at that site, but that beach wasn't there until it was filled in by man years ago. Once the new channel is established, the current channel will naturally fill from sands shifting from north to south. I would be glad to discuss the dynamics of the beach erosion and sand movement on this particular sand spit with

your experts, if you desire.

If you force the removal of the outlet channel erosion protection, you will be fully responsible for the consequences and possible loss of the entire sand spit and lagoon. Please acknowledge our comments and clarify your intent to pursue the terms of your Notice.

My wife and I are not ones to file complaints against our neighbors. We prefer to talk and work out a mutually acceptable solution. We have for years expressed our concerns to our neighbors about the gradual plugging of the historical lagoon outlet and asking for assistance in keeping the culvert open, to no avail. Perhaps we should have filed a complaint regarding the fact that the unpermitted culvert and lack of maintenance caused the lagoon to stagnate and resulted in the new channel evolving. We look positively to you to help protect the lagoons vitality and arrive at a mutually acceptable solution.

Sincerely,

Jim Thompson, P.E.,
Thompson Land LLC
425-392-0590

From: landbyjt@msn.com
To: mark.luppino@co.pierce.wa.us; mluppino@co.pierce.wa.us
Subject: FW: Stop Work Order re 10000Rosedale Bay Ct. NW
Date: Tue, 1 Sep 2009 17:18:32 -0700

Hello Mark,

I just recently received and opened your letter dated 8-17-09. The letter was not postmarked until 8-20. Unfortunately a enforcement action "Stop Work Notice" was imposed on me before I could respond to your letter or provide my input into the situation. For your information, I am forwarding the email below that I sent to Jim Gillette regarding the Stop Work Order. As explained in my email, I am requesting that you please remove this Stop Work Order from my property record. Do I need to file a violation complaint against my neighbors for the illegal culvert and/or lack of maintenance and the lagoon outlet plugging up? I would be happy to meet with you and or discuss how the lagoon can be maintained with fresh intertidal exchange.

Sincerely,

Jim Thompson, P.E.,
Thompson Land LLC
425-392-0590

From: landbyjt@msn.com
To: jgillet@co.pierce.wa.us
CC: rosannepowers@msn.com
Subject: Stop Work Order re 10000Rosedale Bay Ct. NW
Date: Mon, 31 Aug 2009 17:06:25 -0700

Mr. Gillette,

We found a Stop Work Order dated 8-28-09 with your name on it on our property this weekend. The notice indicated excavating was the violation. Although you failed to contact us and gave us no notice of your concern, I assume you are referring to the beach erosion occurring in front of our property. Your notice implies that we are the cause of this erosion and that we are somehow "excavating" illegally. Please be advised that we are not and have not been excavating. If you would have had the common courtesy to discuss this matter with us prior to your threatening Cease and Desist Order you would perhaps understand the history behind this situation as discussed below.

I am a civil engineer specializing in hydraulics and have experience with beach and tidal environment and design. So I speak with at least a little authority. We bought our property about 15 years ago and have observed conditions closely on the beach since that time. The lagoon was originally created by natural forces with a outlet at the north end. This outlet functioned as tidal in and out channel and kept the lagoon fresh and alive with intertidal vegetation and life. Many years ago, prior to our ownership, the owners of the two lots north of us allowed the historical lagoon outflow channel to be filled and installed a culvert. This work was done illegally and without permits. The culvert allowed for continued tidal exchange with the lagoon but slowly filled with sand. The culvert outlet also was continually being buried by shifting beach sand. As the capacity of the culvert diminished the lagoon slowly began to stagnate. My wife and I worked hard over the years to hand dig out the culvert to clear the sand. We continually complained to the neighbors about the situation and asked for their help, to no avail. In fact their response was that we should leave nature to do it's own thing. When I complained that nature never installed the culvert, they had no response.

Finally about 2 years ago the culvert completely plugged up and was buried by shifting sand. The lagoon immediately stagnated and many sealife began dying. Also the intertidal vegetation began dying. During very high tides the water breaches the sand spit at low points and enters the lagoon. There was one such low point in the spit in front of our property where water had from time to time flowed into the lagoon. After the culvert plugged, during severe winter weather, water unable to get in or out of the lagoon began flowing through the low point on the sand spit. In order to "prevent" erosion we placed some rocks and pavers along this newly forming channel. The channel grew naturally over the next few months until a new channel was "naturally" formed and the lagoon returned to it's natural intertidal state. It has been a constant chore for my wife and I to keep the channel from growing bigger and deeper by the tidal interflow. We actually had it pretty well controlled (straight out) with no beach erosion on the sides, until a drift log blocked the outlet. This caused the tidal flow to erode a new channel sideways which caused the beach erosion of concern. This happened in a matter of a few days, until we were able to install some rocks and pavers to direct the flow back out instead of sideways.

Since then the beach erosion has stopped.

This whole process has been hell for my wife and I. We are constantly working to keep the new channel stable. We have asked the neighbors for help with the new channel or to restore the historical channel but they refuse. Now you and our neighbors are implying it is our fault and our responsibility. Our actions have solely been to protect the lagoon and beach. Our actions were necessary because; A) the adjacent landowner allowed the historical lagoon outlet to be filled and a culvert to be illegally placed and; B) they also failed to maintain the culvert and the lagoon outlet flow.

Based on the fact that the erosion is caused by natural forces and not by our activities or excavation, we request that you remove your Stop Work Order from our property. You gave us no opportunity to provide input or be involved in a solution. However, we do have our opinion regarding a solution(s). The best and most obvious solution is to require the landowners who allowed the illegal culvert to be placed, be required to restore the natural historical outlet channel to the lagoon. If this was done the new channel on my property and the beach erosion beside it would naturally fill in by the shifting beach sands which move from south to north. It would be very easy to establish the historical channel by simply hand digging a small trench along the old culvert location. Nature and tidal interflow would do the rest and re-establish the original channel. In the mean time we will have to do our best to keep the current channel armored to prevent further erosion.

Sincerely,

Jim Thompson, P.E.,
Thompson Land LLC
425-392-0590